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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/909,913 | 07/20/2001 | Gary H. Anders | 00-423 | 2400 |

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EXAMINER

BECKER, DREW E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1761

| MAIL DATE | DELIVERY MODE |
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09/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/909,913 | Applicant(s) ANDERS ET AL. | |
| | Examiner Drew E. Becker | Art Unit 1761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 27-42 and 92-103 is/are pending in the application.
- 4a) Of the above claim(s) 28, 35, 36, 95, 96 and 102 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☐ Claim(s) 27, 29, 31-34, 37-42, 92-94, 97-101, 103 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. In view of the BPAI Decision of 7/31/07, PROSECUTION IS HEREBY REOPENED. As set forth below.

Election/Restrictions

2. Claims 28, 35-36, 95-96, and 102 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Allowable Subject Matter

3. Claims 1-20 are allowed.
4. Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is an examiner's statement of reasons for allowance: the method of independent claims 1 defines over the prior art of record because the prior art does not teach, suggest, nor render obvious pressing with pliable material wherein pressure is applied to said food items in said step of pressing using said pliable material in a manner effective for rupturing said collagen protein layer sufficiently to form an opening therethrough.
6. The following is a statement of reasons for the indication of allowable subject matter: the method of dependent claim 30 defines over the prior art of record because

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the prior art does not teach, suggest, nor render obvious said first layer is a cover for a plunger and said second layer covers at least an interior portion of a cavity wherein said plunger is receivable for pressing said food items.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 27, 29, 31-33, 92-93, 101, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al [Pat. No. 4,467,497].

Peterson et al teach a method of treating foods by pressing meat between two pliable surfaces (Figure 1, #6 & 12; column 2, line 35) which at least partially surround the meat, first and second surfaces (Figure 1, #7 & 13), successive rollers providing a series of presses (Figure 1, #5 & 11), and the pliable rubber belts also conform to the meat to at least some small degree when passing the pairs of rollers, as well as when passing through the spaces between the pairs of rollers where the meat would push the belts outward in an attempt to expand back to its unpressed thickness. Peterson et al do

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not disclose a value for the pressure applied during pressing or a thickness for the belts.

It would have been obvious to one of ordinary skill in the art to use various pressure values and belt thicknesses since this would have been done during the course of normal experimentation and optimization procedures, since Peterson et al controlling the belt tension (column 2, line 41), since Peterson et al teach belts made of any suitable material such as plastic and rubber (column 2, line 34), and since Peterson et al desired an absence of substantial loss of meat juice and blood (column 1, line 37).

9. Claims 37, 40, 97, and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al, as applied above, in view of Gould [Pat. No. 4,657,771].

Peterson et al teach the above mentioned concepts. Peterson et al do not recite impacting the meat during infusion and spiral flites. Gould teaches a method of treating meat by infusing it with liquid while impacting it with spiral flites (Figure 1 , #24). It would have been obvious to one of ordinary skill in the art to incorporate the spiral flites of Gould into the invention of Peterson et al, since both are directed to methods of treating meat, since meat products were commonly marinated before consumption, and since the spiral flites of Gould provided advantages during marination such as minimal bruising, uniform color and brine uptake, as well as minimal time requirements (column 2, line 62 to column 3, line 21).

10. Claims 41-42 and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al and Gould, as applied above, and further in view of Ludwig [Pat. No. 5,544,332].

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Peterson et al and Gould teach the above mentioned concepts. Peterson et al and Gould do not recite a paddle rotating opposite the spiral flites. Ludwig teaches a method of infusing meat with rotating paddles (Figure 6, #57) and the paddles operating in either direction (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the paddles of Ludwig into the invention of Peterson et al, in view of Gould, since all are directed to methods of treating meat, since Gould already included spiral flites during infusion (Figure 1, #24), and since the reversible paddles of Ludwig provided a convenient means for emptying the vessel (abstract) while also providing added impacts to the meat to improve infusion.

11. Claims 34, 37-38, 94, and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al, as applied above, in view of Nordin [Pat. No. 3,347,679].

Peterson et al teach the above mentioned concepts. Peterson et al do not recite a submerged conveyor, impacting during infusion, and at least one pound of liquid per pound of meat. Nordin teaches a method of infusing meat by using a submerged conveyor (Figure 1, #14 & 16) and several times more liquid than meat (Figure 1, #8 & 10). It would have been obvious to one of ordinary skill in the art to incorporate the submerged conveyor of Nordin into the invention of Peterson et al since both are directed to methods of treating meat, since meat was commonly infused with liquid prior to consumption, and since the submerged conveyor of Nordin provided more even distribution of liquid and quicker curing time (column 1, lines 56-60).

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12. Claims 39 and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al, in view of Nordin, as applied above, and further in view of GB 957356.


Peterson et al and Nordin teach the above mentioned concepts. Peterson et al and Nordin do not recite flexible fingers. GB 957356 teaches a method of treating meat by impacting it with flexible fingers (Figure 4, #5). It would have been obvious to one of ordinary skill in the art to incorporate the flexible fingers of GB 957356 into the invention of Peterson et al, in view of Nordin, since all are directed to methods of treating meat, since Nordin already included impacting fingers during infusion (Figure 1, #18), and since GB 957356 teaches that flexible fingers were more effective than stiff fingers (page 1, lines 26-75).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DREW BECKER
PRIMARY EXAMINER
8-30-07